FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

TO: Board of Supervisors

John J. Adair

FROM: John J. Adair, Auditor to the Board
Office of Financial and Programs Auditor

DATE: December 22, 2008

SUBJECT: Quarterly Status Report on Operations

EXECUTIVE SUMMARY

Based on a suggestion in our June Quarterly Status Report on Operations, Department of Transportation staff presented a proposal to the Board of Supervisors in October 2008 suggesting a fare increase and a new fare policy for its Connector buses. In essence, the proposed policy would establish and maintain Connector fares at the same level as Metrobus regional fares.

The new fare increase and policy were approved by the Board of Supervisors on December 8, 2008, and will go into effect January 4, 2009. The new policy and fare increase is expected to result in additional revenue for the County of almost $1 million in the second half of Fiscal Year 2009, and about $2.78 million in Fiscal Year 2010.

The McConnell Public Safety and Transportation Operations Center was officially opened at a ribbon cutting ceremony on October 10, 2008. County staff, after reviewing the costs for the Center, transferred another $1.5 million from the MPSTOC budget to the General Fund, bringing the total amount transferred to $5,540,000.

Police citation of County, rather than State, codes when writing traffic tickets has continued. Based on the increase in revenue during the first 5 months of FY 2009, we estimate that the County will realize $1.5 to $2 million in additional revenue from traffic fines in Fiscal Year 2009 compared to Fiscal Year 2008.

We continued our review of contracts awarded for consulting services. Information provided by County agencies on the people working for the County under these contracts, is being analyzed as it is received to determine whether there are opportunities to save money.

At the Board's request, we are reviewing the Department of Tax Administration's efforts to collect sales taxes that had been improperly paid to other jurisdictions. The County has identified a net of $4.1 million of these payments thus far, and is making changes to help ensure that all appropriate sales tax payments come to Fairfax County.

COMPLETION OF REVIEW OF FARES CHARGED FOR CONNECTOR BUSES

We completed our review of the fares charged for Fairfax Connector bus trips. We initiated our review because Connector fares were less than Metrobus regional fares even though they both carry passengers to Metrorail stations and other locations throughout the County.

In our June 2008 Quarterly Status Report, we said there was no County policy regarding the setting of fares for the Connector or the timing of fare increases. We suggested that it would be beneficial for the County to consider adopting a policy that would tie all future Connector fares and fare increases to those charged by the Washington Metropolitan Area Transit Authority (WMATA) for the Metrobus routes that operate in Fairfax County.

This quarter, in response to a directive from the Board of Supervisors in June 2008, the County Department of Transportation staff prepared a proposal for public meetings on a fare increase that was presented by the County Executive to, and approved by, the Board of Supervisors on October 20, 2008.

Two meetings were held in November to solicit public input for the Department's proposal to set Connector fares at the same level as Metrobus fares. There was virtually no opposition to the proposed fare increase and policy change at the two meetings.

The County Executive then presented a Board Item on December 8, 2008 establishing the fare increase and new policy. This was approved by the Board

Transportation staff estimates the new fares will result in a net $993,000 revenue increase for the remainder of FY 2009, following recalibration of the fare boxes on the Connector buses, and a $2.78 million annual increase beginning in FY 2010.

Background

The Fairfax Connector is a public bus service provided by the County. It was created as a cost saving alternative to WMATA Metrobus service in Fairfax County. When Connector buses began operations in September 1985, the original routes connected the southern part of the County (near the Mount Vernon Estate) to the Huntington Metrorail Station which borders Alexandria.

The Connector has since expanded to more than 50 routes spanning much of the County. In 1994, for example, the Connector service was extended to the high technology industrial areas of suburban Reston and Herndon where Connector express buses carry commuters along the Dulles Toll Road from free park-and-ride lots to the Washington Metro Rail System.

Fares are paid in cash (exact change), paper bus transfers, or by Metrobus weekly unlimited bus "flash" pass. Connector deployed SmarTrip readers on its buses in May 2007, extending the use of this Washington Metro fare-payment system to Fairfax County.

The base fare for Connector at the time of our review was $1, but it was as much as $3 for express routes. Metrorail transfer fares were discounted to $0.35 from $1 fares, and $2.10 for $3 fares. Senior citizens receive discounted fares on all buses or free fare with a Metrorail transfer. Children under age 5 and the disabled ride free on all routes.

The County's Department of Transportation manages, oversees and coordinates the activities of the Connector bus system. In FY 2008, the system had 58 routes providing both intra-county service and access to 6 Metrorail stations. The Connector is operated by a private contractor who in FY 2008 utilized 202 buses and 2 bus operation centers owned by the County.

A third bus operation center is under construction, with a planned mid FY 2009 opening. The new center will provide service to the western portion of the County, in Centreville and Chantilly. It will replace 15 of WMATA's non-regional Metrobus routes, as well as supporting some existing Connector operations.

<u>Connector Fares</u>

In 1997 a route classification determination was made regarding Metrobus and Connector routes. It was determined that Metrobus routes would be classified as either regional or non-regional routes.

Metrobus fares for regional routes – defined as routes that either begin or end outside Fairfax County – essentially adopted the Metrobus fare structure. These fares have always been higher than Connector fares.

Metrobuses operating on non-regional routes, – which operate entirely within Fairfax County,[1] - in many respects conform to Connector routes, and charge the same fares as the Connector. The Metrobus timetables indicate that a special fare is being charged for these routes.

For all Connector routes and services, the fares charged for riding Connector buses within Fairfax County (and for riding Metrobus within the County) have always been less than those charged for riding on Metrobus regional routes, with a few exceptions such as Richmond Highway and in the Tysons Corner area.

On occasion the Connector fares were increased when WMATA increased Metrobus regional fares, but never to the same level. For example, in June 2004, when WMATA

[1] Except for some express routes operating to the Pentagon and one non-regional route operating to East Falls Church

raised its Metrobus regional fares from $1.20 to $1.25, the Connector raised its rates from $0.75 to $1.00.

In January 2008, when WMATA had its most recent Metrobus regional fare increase, from $1.25 to $1.35, the Connector did not increase its fares. Department of Transportation staff said a fare increase was discussed in February 2008, but after considering the effect on residents if both Connector and Metrobus rates were increased in a similar time period, and because the timing of WMATA's increase was not in sync with the County's budget cycle, a fare increase proposal was not presented to the Board at that time.

Fares Charged by Other Regional Transportation Buses

In General, the localities neighboring Fairfax, and Montgomery County, are charging bus fares that are higher than the base fare of $1.00 that the Connector charges, and in some cases equal to the Metrobus base fare.

- Montgomery County began charging $1.35 for its bus fare in July 2006, some 18 months before WMATA raised its Metrobus fare to that amount.

- Arlington County raised its ART bus rate from $1.25 to $1.35 in July 2008 to match Metrobus fares.

- Alexandria began charging $1.25 in July 2008.

Proposal for Meetings on Fare Increase Provided to Board

The County's Department of Transportation has been considering an increase in Connector fares. This quarter, Department staff prepared a Connector bus fare and adjustment policy, and it was presented to the Board of Supervisors by the County Executive on October 20, 2008.

The proposal, which was approved by the Board, recommended that the Board direct the Department to hold public meetings to receive public comment on the adjustment of Connector fares and the adoption of a new fare policy.

Two public meetings were announced and held by Transportation staff, on November 1 and November 8, 2008. There was virtually no opposition to the proposed fare increase and policy change. Other than Transportation staff, just three people attended the two meetings.

The Connector fare and policy adjustment information was also available on the Fairfax Connector web site. Public input was received via e-mail, phone message and letter. A total of 20 people submitted comment by November 14, 2008, the close of the comment period. Of the 20, there were 8 who disagreed with the fare increase and 6 who approved of it.

The Department of Transportation's proposal for a fare increase and a new policy on fare increases was presented to the Board of Supervisors on December 8, 2008, and was approved by the Board.

Transportation Department staff calculated the impact of the fare increase and estimated that a net increase of $993,000 in revenue would occur during the last half of FY 2009, from January 4 through June 30, 2009, after deducting the cost of recalibrating the fare boxes on the Connector buses.

Transportation staff estimated that additional revenue in FY 2010 from the fare increase would be about $2.78 million.

DEDICATION OF MCCONNELL PUBLIC SAFETY AND TRANSPORTATION OPERATIONS CENTER

The County has been building the new McConnell Public Safety and Transportation Operations Center (MPSTOC). The Center, named after former Springfield Supervisor Elaine McConnell, will provide public safety and transportation services using coordinated technology and integrated data systems among Fairfax County, the Virginia Department of Transportation, and the Virginia State Police.

MPSTOC includes an improved Emergency Operations Center and a new Public Safety Communications Center that will improve the central routing for all 9-1-1 calls received in the County.

Also included in this project, but housed in a separate building, is the Fairfax County Police Department Forensics Facility, including the Crime Scene Section, the Electronic Surveillance Unit, space for the future DNA Laboratory, and NOVARIS (the Northern Virginia Regional Identification System).

Because of the cost and relatively short time frame to complete the construction of the project, our office was asked to monitor the project to help provide assurance that it will be completed on time and within budget and will deliver the expected functionality.

MPSTOC Facility Dedicated and Additional Money Returned to the General Fund

The County awarded a contract to the Manhattan Construction Company for $56,111,000 in June 2006 to construct the MPSTOC facility. The contract amount was in line with County estimates. Construction work began in August 2006.

By July 30, 2008, the MPSTOC facility was substantially completed, just ahead of its July 31, 2008, estimated completion date. County and State staff began moving into the facility in August and September. The official ribbon cutting ceremony occurred on October 10, 2008.

The successful construction of MPSTOC, including the information technology aspects of the project, is attributed by staff to be the result of many factors, including cooperation among the County project team staff members, its consultants and the contractors.

Staff also credits extensive planning, needs assessment, value engineering, coordination among all stakeholders and the efficient application of financial resources as contributing factors in the project being on schedule and within budget.

The County staff's actions in planning and coordinating the needs of users, and keeping change orders to a minimum during construction, has allowed the County staff to transfer $5,540,000 from the project to the General Fund.

County staff transferred $2 million in April 2008 to help balance the Fiscal Year 2009 County budget, $2,040,000 in September 2008 as MPSTOC was being completed, and $1,500,000 in October 2008.

The $1,500,000 transferred in October 2008 had been considered for use in building out a DNA Lab for the Forensics Facility. However, finishing out the DNA Lab would have been an additional task to the original scope of services included in the MPSTOC contract. In light of the funding constraints facing the County in the current Fiscal Year and in Fiscal Year 2010, the County decided to delay building out this space and to return the money to the General Fund.

REVIEW OF REVENUE FROM FINES FOR TRAFFIC VIOLATIONS

At the Audit Committee's request, we began a review in October 2007 of revenue from fines for traffic violations. The Committee was concerned that the State, rather than Fairfax County, was receiving the revenue from some fines because Fairfax police officers were citing State, rather than the County, codes for certain violations.

In essence, if a traffic summons written by the Police cites a County code violation, the money from the fine belongs to the County. If a State code is cited, the money goes to the State, minus the court costs which stay in the County.

Police had advised us that during the first 9 ½ months of 2007, about 15,000 summonses cited State codes even though existing County codes could have been cited.

The Board of Supervisors, at its January 11, 2008, meeting, directed that the Police and County Attorney's Office take action to ensure that where County codes exist, the County code be cited when writing traffic summonses.

The Board made it clear that it was not suggesting that there be an increase in the number of summonses written, but stated that when summonses were written, they should be written using the County code where appropriate.

The Police and County Attorney's Office had already begun to take action prior to the January 11, 2008, meeting. The Chief of Police issued a memo to his command staff on December 23, 2007, reaffirming the Department's policy that officers <u>shall</u> cite offenses under the County code whenever an applicable County code section exists.

<u>Results of Actions Taken by Police to Cite County Code Where Appropriate</u>

The results of the Police efforts continued to be positive this quarter. From January through October 2008, compared with January through October 2007, the number of citations of County codes increased by 26,833.

These results indicate that Fairfax officers are following the direction of the Chief's December 2007 memo on this matter.

If continued, this could result in an additional 32,200 tickets written to County codes annually, and an estimated $1.5 to $2 million in additional revenue from traffic fines in Fiscal Year 2009 compared to Fiscal Year 2008.

The Police Department continues to work on a long term solution for the problem that would provide an electronic ticketing platform for traffic enforcement to ensure that when an officer writes a traffic summons, that platform will default to the County code whenever appropriate.

<u>REVIEW OF CONSULTANT CONTRACTS</u>

We continued our review of contracts awarded by Fairfax County to consultants over the past several years.

Consultants often are of valuable assistance to the County by providing expertise not possessed by County staff, or by providing assistance for a short period of time when needed. However, the Audit Committee wanted to determine whether there were instances where the consultant contracts for services were of a recurring nature, and, if so, whether the services were of such a nature that they could be provided at considerably less cost by hiring full time County employees.

We are working with the Department of Purchasing and Supply Management (DPSM) to get the information we need to analyze the use of consultants for staff augmentation.

To determine who to request information from, DPSM staff reviewed all County contracts to identify agreements that include labor categories and rates that could be used for the purposes of staff augmentation.

Out of more than 2,700 current contracts, the DPSM determined that 215 contracts may include "contract staffing" which was defined as personnel placed for a minimum of 6 months within a County department doing the kind of work that possibly might have been done by County merit staff.

DPSM sorted the 215 contracts, involving 1,026 purchase orders, by agency. On November 4, 2008, the DPSM Director sent a memo to 26 Departments and Agencies requesting information on the use of staff augmentation contracts for Fiscal Years 2007 and 2008. Information prior to Fiscal Year 2007 had been purged from the system.

The memo requested that agencies provide information on the selected consultant contracts regarding the description of duties of the consultants, the contract rate paid for each individual, the number of months the individual worked, and the dollar value of payments for services by fiscal year.

Responses to Staff Augmentation Contracts Request

As of December 12, 2008, responses had been received from 20 of the 26 Departments and agencies. We analyzed the responses as the information was received to determine if there are opportunities to reduce the number and/or costs of those contracts.

As we were conducting our review of consultant contracts, the Board of Supervisors was conducting a Lines of Business Review which required each County agency to present the Lines of Business it operated, and determine how 15% could be cut from them.

Some of the contracts that we believed warranted further discussion and review with County agencies were also under consideration by those agencies as part of their Lines of Business Review.

For example, the Department of Public Works and Environmental Services (DPWES) Land Development Services had a contract for a number of years with the Institute for Building Technology and Safety (IBTS) for professional inspections services, engineering services, and enforcement inspections. The County paid $223,000 in Fiscal Year 2007 and $389,000 in Fiscal Year 2008 for these services to IBTS.

As part of its 15% reduction in its Lines of Business review, the DPWES suggested this contract be terminated. DPWES said this would save about $450,000 in Fiscal Year 2010.

Similarly, the Department of Transportation had a consultant contract with a Federal lobbyist for services including reviews of upcoming Federal legislation, grants and available funds for Fairfax County. The County paid about $105,000 in Fiscal Year 2007 for this service and about $125,000 in Fiscal Year 2008.

As part of its Lines of Business review, one of the proposed cuts was for the Federal lobbyist consultant contract.

Further Analysis of
Consultant Contracts

As the consultant information was received, we noted that many contracts were for small amounts, such as for temporary clerical work, or for services used only periodically. These do not appear to offer opportunities to save money.

Other consultants were working for County agencies engaged in Enterprise Fund operations. Reducing or replacing these consultants would not have an impact on the General Fund.

Others contracts, such as those for the transportation of foster care children by case assistants hired for that purpose, and contracts for consultants working for the Department of Information Technology, may provide opportunities for savings and will be reviewed in more detail.

We will continue our review of consultant contracts during the next quarter.

REVIEW OF SALES TAX COLLECTIONS

At its meeting of June 30, 2008, the Board of Supervisors discussed the issue of sales taxes being inadvertently paid to the wrong jurisdiction. One Supervisor pointed out that Henrico County, Virginia, estimated they lose an estimated $5 million each year to Richmond when business owners inadvertently pay their local sales taxes to the wrong jurisdiction.

The Board indicated that Fairfax County's Department of Tax Administration (DTA) was aware of this issue, and already had reclaimed $2.5 million in sales taxes that either went to the State or surrounding jurisdictions.

At the June 30th meeting, the Board of Supervisors requested that we inquire into the County's collection of sales taxes to determine what, if any, funds are being sent to the

Commonwealth or surrounding jurisdictions that should be sent to the County, and what measures are being taken to ensure those funds are returned.

Identifying the Misallocation

There are approximately 7,400 retail businesses in Fairfax County that pay both a State and a 1% local sales and use tax. Any retail business with a location in Fairfax County should allocate the local portion of their sales taxes to Fairfax County-FIPS Code 51059 when paying its monthly sales tax to Virginia.

FIPS is an acronym for Federal Information Processing Standards codes. These codes are issued by the National Institute of Standards and Technology (NIST) and are used to ensure uniform identification of geographic entities throughout all government agencies.

The Virginia Department of Taxation collects sales tax revenues, and the State Comptroller then distributes those revenues on a monthly basis to those local governments within the State.

DTA learned in February 2008 that some sales tax revenue that should have been credited to Fairfax County was being credited improperly to the Commonwealth or to other jurisdictions. The primary reason this was occurring was that Fairfax businesses used the wrong FIPS code.

In addition, some Fairfax businesses were not putting a FIPS code on the forms when they sent payment causing the local portion of the taxes to be put in the "Unassigned" status fund by the Virginia Department of Taxation.

DTA immediately began a review of this matter. During this process, DTA learned that Henrico County had been experiencing similar sales tax problems. Because of their experience, Henrico County staff was instrumental in helping DTA accelerate its discovery efforts in identifying and reporting the misallocation of sales taxes to the state.

Total Sales Tax Misallocated
Identified to Date

As of December 17, 2008, DTA has identified and requested transfer of a net of $4.1 million dollars in misallocated sales taxes. DTA found $9.39 million in sales tax that should have been paid to the County (from 332 businesses) and $5.3 million erroneously paid to the County (from 86 businesses). Affected jurisdictions include the City of Alexandria, City of Fairfax, City of Falls Church, Arlington County, Fauquier County, Loudoun, and Prince William Counties.

DTA's current process for identifying misallocated sales taxes began with the creation of a list of all the retail business license accounts filed in the DTA business database.

The Virginia Department of Taxation gave DTA expanded access to the State's Integrated Revenue Management System (IRMS). With this access, DTA is able to conduct a review of businesses' state tax filings and identify where the local portion of sales taxes paid is being allocated.

Once DTA finds that sales taxes have been misallocated, the length of time of the misallocation and the total dollar amount must be determined. Therefore, DTA must access each month's sales tax returns separately to be able to determine both factors. The Virginia Department of Taxation is currently working with the Commissioners of the Revenue Association of Virginia, of which DTA is a member, to streamline this process for future audit.

To avoid future misallocations, DTA is notifying each of the businesses with whom errors have occurred via a letter. The letter advises them of the correct FIPS code. DTA also will monitor these businesses to ensure compliance.

Request for Transfer of Funds

Once the amount of the misallocation is determined, DTA forwards a request for transfer of funds to the Virginia Department of Taxation, whose audit and registration sections conduct a full review of the accounts to confirm the transfer request totals. By statute, misallocated funds can be requested for refund for a period of 36 months.

When registering a claim with the state for transfer of the misallocated sales taxes, DTA must also contact the affected jurisdiction from which funds are being transferred. DTA then obtains confirmation from that jurisdiction and they specify the method of payment. Virginia Code §58.1-605 (F) provides that payments can be made in a lump sum or in monthly installments not to exceed six (6) months.

For those localities that erroneously receive misallocated sales tax revenue, and assuming a lump sum payment is not made, the State Comptroller is required to make reductions in future allocations to that locality over a six-month period. Each reduction is to be one-sixth of the total adjustment.

Unassigned Funds
Held by the State

When the Virginia Department of Taxation is unable to determine correct allocation of the local portion of sales taxes paid, often due to the failure of the business to include its FIPS number, the funds are placed into an "UNASSIGNED" status. Jurisdictions can make claim of these funds for up to 36 months. A request for transfer of these funds does not require approval from another jurisdiction; therefore, transfer is much faster. If these funds are not claimed, a proportional transfer to all VA jurisdictions is made.

DTA staff follows the process explained above for miscoded FIPS numbers to identify Fairfax County businesses with funds in unassigned status, and request that the Virginia Department of Taxation release those funds to Fairfax County.

DTA Proposed Actions
To Prevent Misallocation
Of Sales Taxes

DTA has sent a letter to all Fairfax County retail merchants, asking them to provide the current FIPS code to which they are allocating their paid sales taxes. This will help DTA identify businesses using the wrong code. This letter already has resulted in the identification of $1 million erroneously paid to the City of Alexandria over a three year period by the retailer, Target, which had a mailing address that said "Alexandria", but was actually located in Fairfax County.

In addition, a required field for the FIPS code will be added to the annual Business Professional and Occupational License (BPOL) mailed next January. This will assist DTA in the continuous monitoring of business accounts from year to year. If a business reports any FIPS Code other than Fairfax County-51059, or if they report no FIPS code at all, this will alert staff to take a closer look.

DTA will continue to audit sales tax allocations and will coordinate with the DMB for purposes of revenue forecasting.

We will continue to monitor and report on DTA's efforts to collect local sales taxes improperly sent to the Commonwealth or other jurisdictions in our next quarterly status report.